

**FILED**

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Board of Vocational Nursing  
and Psychiatric Technicians

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9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2006-1731

13 JOHN STEPHEN ALLEN  
P.O. Box 756  
14 Rancho Mirage, CA 92270

**ACCUSATION**

15 Vocational Nurse License No. VN 63813

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
21 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational  
22 Nursing and Psychiatric Technicians, Department of Consumer Affairs.

23 2. On or about September 27, 1974, the Board of Vocational Nursing and  
24 Psychiatric Technicians issued Vocational Nurse License Number VN 63813 to John Stephen  
25 Allen (Respondent). The Vocational Nurse License was in full force and effect at all times  
26 relevant to the charges brought herein and will expire on October 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 118 of the Code provides, in relevant part:

"....

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

"(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

STATUTORY PROVISIONS

6. Section 2878 of the Code states:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)) for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"....

///

///

1           "(f) Conviction of a crime substantially related to the qualifications, functions,  
2 and duties of a licensed vocational nurse, in which event the record of the conviction shall be  
3 conclusive evidence of the conviction.

4           7.       Section 2878.5 of the Code states:

5           In addition to other acts constituting unprofessional conduct within the meaning  
6 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person  
7 licensed under this chapter to do any of the following:

8           ".....

9           "(b) Use any controlled substance as defined in Division 10 of the Health and  
10 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an  
11 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,  
12 or to the extent that the use impairs his or her ability to conduct with safety to the public the  
13 practice authorized by his or her license.

14           "(c) Be convicted of a criminal offense involving possession of any narcotic or  
15 dangerous drug, or the prescription, consumption, or self-administration of any of the substances  
16 described in subdivisions (a) and (b) of this section, in which event the record of the conviction is  
17 conclusive evidence thereof."

18           8.       Section 2878.6 of the Code states:

19           "A plea or verdict of guilty or a conviction following a plea of nolo contendere  
20 made to a charge substantially related to the qualifications, functions and duties of a licensed  
21 vocational nurse is deemed to be a conviction within the meaning of this article. The board may  
22 order the license suspended or revoked, or may decline to issue a license, when the time for  
23 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
24 granting probation is made suspending the imposition of sentence, irrespective of a subsequent  
25 order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw  
26 his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
27 dismissing the accusation, information or indictment."

28       ///

1                   9.     Section 490 of the Code provides, in pertinent part, that a board may  
2 suspend or revoke a license on the ground that the licensee has been convicted of a crime  
3 substantially related to the qualifications, functions, or duties of the business or profession for  
4 which the license was issued.

5                   10.    Section 493 of the Code states:

6                   "Notwithstanding any other provision of law, in a proceeding conducted by a  
7 board within the department pursuant to law to deny . . . to suspend or revoke a license or  
8 otherwise take disciplinary action against a person who holds a license, upon the ground that the  
9 applicant or the licensee has been convicted of a crime substantially related to the qualifications,  
10 functions, and duties of the licensee in question, the record of conviction of the crime shall be  
11 conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board  
12 may inquire into the circumstances surrounding the commission of the crime in order to fix the  
13 degree of discipline or to determine if the conviction is substantially related to the qualifications,  
14 functions, and duties of the licensee in question.

15                   "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
16 'registration.'"

17                   11.    Section 11032 of the Health and Safety Code provides, in pertinent part,  
18 that the term "restricted dangerous drugs" means controlled substances classified in Schedules III  
19 and IV as defined in sections 11056 and 11057 of that code.

20                   12.    California Code of Regulations, title 16, section 2521, states:

21                   "For the purposes of denial, suspension, or revocation of a license pursuant to  
22 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or  
23 act shall be considered to be substantially related to the qualifications, functions or duties of a  
24 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a  
25 licensed vocational nurse to perform the functions authorized by his license in a manner  
26 consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be  
27 limited to those involving the following:

28                   ". . . .

1           “(f) Any crime or act involving the sale, gift, administration, or furnishing of  
2   “narcotics or dangerous drugs or dangerous devices” as defined in Section 4022 of the Business  
3   and Professions Code.”

4           13.   Section 4022 of the Code provides:

5           “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for  
6   self-use in humans or animals, and includes the following:

7           “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing  
8   without prescription,’ ‘Rx only,’ or words of similar import.

9           “(b) Any device that bears the statement: ‘Caution: federal law restricts this  
10   device to sale by or on the order of a \_\_\_\_\_,’ ‘Rx only,’ or words of similar import, the  
11   blank to be filled in with the designation of the practitioner licensed to use or order use of the  
12   device.

13           “(c) Any other drug or device that by federal or state law can be lawfully  
14   dispensed only on prescription or furnished pursuant to Section 4006.”

#### 15                           COSTS

16           14.   Section 125.3 of the Code provides, in pertinent part, that the Board may  
17   request the administrative law judge to direct a licensee found to have committed a violation or  
18   violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
19   and enforcement of the case.

#### 20                           CONTROLLED SUBSTANCE AT ISSUE

21           15.   Hydrocodone with acetaminophen, also known by the brand name  
22   Vicodin, is a dangerous drug as defined in section 4022 of the Code, and a Schedule III  
23   controlled substance.

#### 24                           FIRST CAUSE FOR DISCIPLINE

25           (June 18, 2007 Criminal Conviction for D.U.I. on March 10, 2007)

26           16.   Respondent is subject to discipline under Code sections 2878(f) and 490,  
27   in that he was convicted of the following crime that is substantially related to the qualifications,  
28   functions or duties of a licensed vocational nurse:

1           a.     On or about June 18, 2007, in the case of *People v. John Stephen Allen*,  
2 (Superior Court Riverside County, Case No. INM177984), Respondent was convicted by the  
3 Court on his plea of guilty of violating Vehicle Code section 23152(a), driving under the  
4 influence, a misdemeanor.

5           b.     The circumstances of the crime were that on or about March 10, 2007, at  
6 about 5:36 p.m., a police officer from the Cathedral City Police Department arrived at the scene  
7 of a traffic collision in the area of McCallum Way and Date Palm Drive in Cathedral City,  
8 California. The officer saw a gold Ford F150 truck stopped in the southbound left turn lane of  
9 Date Palm Drive at the intersection with McCallum Way. The vehicle's left rear tire was  
10 deflated and smoking. Respondent was sitting in the driver's seat. As the officer parked his  
11 vehicle behind Respondent's truck, Respondent got out of the truck and walked towards the  
12 officer. Respondent told the officer that someone almost hit him head on and he struck the curb  
13 to avoid the collision. It appeared to the officer that Respondent's vehicle struck a curb, as  
14 evidenced by the alloy wheel being dented. While speaking with Respondent, the officer noted  
15 that his speech was slow and raspy. His eyes were droopy, and it appeared he was having a  
16 difficult time staying awake. The officer asked Respondent if he had a medical condition, and  
17 Respondent answered, "no." The officer asked him if he had taken any medication. Respondent  
18 told the officer that he takes prescribed medication, Vicodin, for back pain twice a day.  
19 Respondent also told the officer that he took one pill in the morning at about 8:00 a.m., and a  
20 second pill at about 5:00 p.m. The officer asked Respondent if he felt the effects of the Vicodin  
21 and he said "yes." The officer asked Respondent if he felt it was "okay" for him to drive after  
22 taking the pills, and Respondent answered, "probably not but it does not say I can't drive after  
23 taking the pills." It was later determined that Respondent was traveling northbound on Date  
24 Palm Drive, north of McCallum Way, when he drove over the raised concrete divider into  
25 oncoming traffic.

26           The officer performed Field Sobriety Tests on Respondent. When performing the  
27 Rhomberg, Respondent swayed in a circular motion and extended his arms for balance.  
28 Respondent estimated 30 seconds in 35 even though he counted out loud. During the walk and



1 turn portion of the testing, Respondent was unable to take steps without losing his balance. His  
2 arms were raised away from his body for balance. There were 4-5 inch gaps between each of his  
3 steps. Even using these tactics, Respondent still nearly fell twice. The officer stopped the tests  
4 for fear that Respondent may fall into the road during rush hour traffic. Respondent was arrested  
5 for DUI, and transported to the police station for booking. Because Respondent became upset  
6 and uncooperative during the booking process, the officer decided to transport him to the  
7 Riverside County Jail for booking. The officer opened the booking cell, and asked Respondent  
8 to stand up. Respondent refused and told the officer he was not going anywhere. The officer  
9 grabbed his left arm, stood him up, pinned him up against the booking cell west wall, and placed  
10 handcuffs on him without further incident. Respondent was then transported to Riverside County  
11 Jail for booking.

12 c. On or about June 18, 2007, Respondent was sentenced and ordered to  
13 serve five (5) years probation, to serve four (4) days in custody with the Riverside County Sheriff  
14 with credit for two (2) days served, to pay a fine and penalty assessment of \$1,752.40, to pay  
15 \$110.00 for booking fees, to pay a restitution fine of \$100.00, to not drive unless properly  
16 licensed nor without insurance or valid registration, to submit to chemical testing of blood,  
17 saliva, breath, or urine or any reasonable physical test upon request of any probation or law  
18 enforcement officer, to attend and satisfactorily complete the Drinking Driver Program, and to  
19 pay the program fees.

#### 20 SECOND CAUSE FOR DISCIPLINE

21 (March 22, 2007 Criminal Conviction for Disturbing the Peace on March 13, 2007)

22 17. Respondent is subject to discipline under Code sections 2878(f) and 490,  
23 in that he was convicted of the following crime that is substantially related to the qualifications,  
24 functions or duties of a licensed vocational nurse:

25 a. On or about March 22, 2007, in the case of *People v. John Stephen Allen*,  
26 (Superior Court Riverside County, Case No. INM175795), Respondent was convicted by the  
27 Court on his plea of guilty of violating Penal Code section 415, disturbing the peace, a  
28 misdemeanor.

1           b.       The circumstances of the crime were that on or about March 13, 2007, the  
2 day after Respondent was released from Riverside County Jail for his D.U.I. arrest referenced  
3 above at paragraph 15, at about 11:30 p.m., Victim John Doe, a person with whom Respondent  
4 was living, left their residence to go to the store. Respondent confronted Victim Doe outside and  
5 told him to go back inside the residence because it was late. Victim Doe told Respondent that it  
6 was not too late, and that he would be right back. Respondent told Victim Doe that he was not  
7 going to the store and to go back inside the residence. When Victim Doe ignored Respondent,  
8 Respondent grabbed Victim Doe by his shirt and threw him to the ground. Victim Doe landed on  
9 the side of the driveway near the corner of the walkway where there is dirt. Victim Doe began  
10 yelling for Respondent to let him go, but Respondent ignored him. Respondent began kicking  
11 Victim Doe repeatedly on his back while Victim Doe was lying on the ground. Respondent then  
12 grabbed Victim Doe by his legs and dragged him about 40 feet across the dirt area onto the  
13 cement walkway and into the house. Once in the house, Respondent dragged Victim Doe  
14 another 20 feet across the floor into the master bedroom. Victim Doe tried to fight Respondent  
15 off, but Victim Doe was weak because of a pre-existing medical condition. Respondent told  
16 Victim Doe not to come out of the bedroom again, and slammed the door shut. Victim Doe  
17 suffered abrasions to his back and left knee.

18           The officer later spoke with Respondent about what happened. Respondent advised the  
19 officer that he was Victim Doe's caregiver, and he was outside conducting his daily duties last  
20 night when he told Victim Doe not to leave the house. The officer asked Respondent what duties  
21 he would be doing outside at 11:30 p.m., and Respondent replied that he was moving the car.  
22 Respondent told the officer that when Victim Doe came outside the residence and told  
23 Respondent that he was going to the store, Respondent told Victim Doe that he was not leaving  
24 the residence because of his physical condition. Respondent told the officer that Victim Doe just  
25 went back into the house and went to sleep. Respondent denied any kind of altercation with  
26 Victim Doe, and said that Victim Doe did as he was told by Respondent. Respondent explained  
27 the injuries to Victim Doe were from falling down four times over the past week or so. After the  
28 officer told Respondent that Victim Doe's injuries appeared new, Respondent appeared nervous



1 and blurted out that he helped Victim Doe last night by cleaning the two small scrapes on his  
2 back. When the officer told Respondent that Victim Doe had more than just two small scrapes  
3 on his back, Respondent blurted out, "He falls down all the time."

4 c. On or about March 22, 2007, Respondent was sentenced and ordered to  
5 serve three (3) years probation, to serve thirteen (13) days in custody with the Riverside County  
6 Sheriff with credit for nine (9) days actually served, to perform 20 hours of community service  
7 through Volunteer Center; to enroll in Community Service program classes by April 5, 2007; to  
8 pay a total of \$110.00 for booking fees; to pay \$400.00 to Domestic Violence Fund; to pay  
9 \$20.00 for Court Security Fee; to pay restitution fine of \$100.00; to enroll in a 52-week Domestic  
10 Violence Program and provide proof of enrollment to the court/probation within 30 days; and to  
11 pay \$100.00 for Probation Revocation Restitution Fine with the fine stayed and imposed upon  
12 revocation of probation.

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
15 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric  
16 Technicians issue a decision:

- 17 1. Revoking or suspending Vocational Nurse License Number VN 63813,  
18 issued to Respondent John Stephen Allen;
- 19 2. Ordering John Stephen Allen to pay the Board of Vocational Nursing and  
20 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
21 pursuant to Business and Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: March 23, 2009

24  
25 

26 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
27 Executive Officer  
28 Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant